

# MINUTES

January

January 4<sup>th</sup> – January 29<sup>th</sup>

Monday, January 4, 2010

Division Two

**A125719 – The People, v. Prospero Araiza.**

Our dependent review having revealed no arguable issues that require further briefing, the judgment entered upon denial of appellant's motion to vacate his plea is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Five

**A124639 – In re the Marriage of Yanli Li and Hao Xu. Yanli Li, v. Hao Xu.**

The judgment is vacated. On remand, the superior court is directed to grant Xu's motion to quash service of summons. Xu to recover costs. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, January 5, 2010

Division One

**A122965 – Julie Adamson, v. Joseph W. Pheffer.**

The order appealed from is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Three

**A121367 – The People, v. Eric Scott et al.**

The judgments against defendants Scott and Key are affirmed. Jenkins, J., We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

Division Five

**A124951 – In re Jesse M., a Person Coming Under the Juvenile Court Law. The People, v. Jesse M.**

The juvenile court's orders are affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

**A124374 – Donald L. Junkin III, v. Golden West Foreclosure Service, Inc., et al.**

Tuesday, January 5, 2010(Continued)

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Certified for Publication.)

Wednesday, January 6, 2010

Division One

**A125205 – In re Jesse T., a Person Coming Under the Juvenile Court Law. Department of Social Services, v. Jennifer T.**

The order terminating mother's parental rights is reversed. The case is remanded to the juvenile court with directions to comply with the notice provisions of the ICWA. If, after providing notice, the court determines Jesse T. is an Indian child, the court shall proceed in conformity with the ICWA. If, however, after proper inquiry and notice, the court determines Jesse T. is not an Indian child, the order terminating mother's parental rights and selecting adoption as the permanent plan shall be reinstated. (*In re Alice M.*, *supra*, 161 Cal.App.4th at p. 1203; *Francisco W.*, *supra*, 139 Cal.App.4th at pp. 705, 711; see also *D.B. v. Superior Court* (2009) 171 Cal.App.4th 197, 208.) Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A125178 – The People, v. Nicolas Honesto Gonzalez.**

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A123268 – Derrick Chapman, v. Naef Dagmar Saraatje.**

The judgment is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

**A122123 – Robert Hoyt, v. Colonial Acres Mobile Homes Park et al.**

The judgment is affirmed. Defendants' cross-appeal is dismissed as moot. Defendants shall recover their costs on plaintiff's appeal. The parties shall bear their

own costs on the cross-appeal. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

**A123616 – In re the Marriage of John A. Guinn and Hephzibah Guinn. John A. Guinn, v. Hephzibah Grimes.**

The order awarding sole physical custody to Husband is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Wednesday, January 6, 2010(Continued)

Division Two

**A123990 – In re C.G., a Person Coming Under the Juvenile Court Law. The People, v. C.G.**

The orders are affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A124188 – The People, v. Gregory Garrett.**

The convictions on counts 1 and 6 are reversed and vacated. In all other respects, the judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

Division Four

**A126766 – In re A.G. et al., Persons Coming Under the Juvenile Court Law. M.G., v. The Superior Court of Humboldt County, Humboldt County, Humboldt County Department of Health & Human Services, R.P.I.**

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A122121 – The People, v. Dan Ernest Lagomarsino.**

**A123807 – In re Dan Ernest Lagomarsino, on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A124250 – The People, v. Tony K.**

By The Court: The opinion filed on December 8, 2009, is modified as follows: On page 1, delete the first full paragraph and insert the following: “Tony K. appeals from a judgment entered after he pleaded no contest to resisting an officer (Pen. Code, § 69) and misdemeanor battery. (Pen. Code, § 242.) He contends (1) the trial court erred when it failed to obtain and consider the appropriate report prior to sentencing, and (2) the court failed to consider his needs prior to sentencing. We affirm.” On pages 8 and 9, delete the entire discussion under part C entitled “Validity of the \$30 Fine.” The petition for rehearing is denied. This modification does not affect the judgment. Jones, P.J. (Not for Publication.)

Thursday, January 7, 2010

Division One

**A124838 – In re J.B., a Person Coming Under the Juvenile Court Law. The People, v. J.B.**

The restitution order is reversed, and the matter is remanded to the juvenile court for a new hearing on the additional amount of restitution payable to the victims. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

**A125593 – In re Joshua H., a Person Coming Under the Juvenile Court Law. The People, v. Joshua H.**

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

**A123365 – The People, v. Terrence Webb.**

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A122225 – The People, v. Russell Elijah Edwards.**

By The Court: It is ordered that the opinion filed herein on December 18, 2009, be modified as follows: (See Order). This modification changes the judgment and, therefore, the decision will become final 30 days from the filing of this order. (Cal. Rules of Court, rule 8.264(c)(2).). McGuiness, P.J. (Not for Publication.)

Division Four

**A116248 – Marvin C. Weinstat et al., v. Dentsply International, Inc.**

The order is reversed and remanded for the limited purpose of deciding whether the named representatives can meet the UCL standing requirements specified in *Tobacco II*, and if not, whether amendment should be permitted. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

**A124355 – The People, v. Patricia Patricka.**

The restitution order is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Thursday, January 7, 2010(Continued)

Division Five

**A123200 – The People, v. Meliton Lara.**

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, January 8, 2010

Division One

**A123147 – The People, v. Lamar Hernandez.**

The judgment is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

**A118301 – Conservatorship of the Estate of Alexander Carl Beigel. Gene Marchi, v. Ali Mohyee.**

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

**A121545 – The People, v. Jermaine Merrell Hollie.**

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Certified for Partial Publication.)

Division Four

**A123824 – In re C.C., a Person Coming Under the Juvenile Court Law. The People, v. C.C.**

The findings and order appealed from are reversed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Monday, January 11, 2010

Division Two

**A122751 – In re Antonio D., a Person Coming Under the Juvenile Court Law. The People, v. Antonio D.**

Monday, January 11, 2010(Continued)

The orders are affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Four

**A125393 – In re M.K., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. K.C.**

The juvenile court's order is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

**A125073 – Certain Underwriters at Lloyd's London, v. E\*Trade Group, Inc.**

The April 30, 2009 order denying the motion to strike is affirmed. ETrade shall pay Underwriters' costs. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, January 12, 2010

Division One

**A125041 – The People, v. Mark Craig Wathen.**

Defense counsel interposed objections and vigorously defended his client. Substantial evidence supports the jury's verdict in a case that turned on credibility of witnesses with divergent testimony. There was no error in the proceedings or sentencing. The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

**A126007 – In re D.E., a Person Coming Under the Juvenile Court Law. The People, v. D.E.**

The dispositional order is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)



CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, January 12, 2010

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Dondero, Justice, Banke, Justice, Fred Abad, Deputy Clerk, and CHP Officer Ricky Franklin, Bailiff.

A126505 R.C.,

v.

The Superior Court of the City and County of San Francisco;  
Department of Human Services.

Cause called and argued by Mark Murray, counsel for petitioner, and Jennifer Williams, counsel for respondent. Cause ordered submitted.

A123764 Opt Golden Hills Vac,

v.

Sav Max Foods Inc.

Cause called and argued by James Moses, counsel for appellant, and Joseph Buchman, counsel for respondent. Cause ordered submitted.

A122668 Michael Chapman, et al.,

v.

Allied Waste Industries.

Cause called and argued by Edward Casey, Jr., counsel for appellants, and Peter Abrahams, counsel for respondent. Cause ordered submitted.

A123255 Estate of Maureen Salaman, Deceased.

Sean Morton, et al.,

v.

Jerry Roberts, et al.

Cause called and argued by Sean and Melissa Morton, appellants in propria persona, Jonathan Wolf, counsel for respondents. Cause ordered submitted.

A125163 Renee Rose,

v.

Synergenics, LLC.

Cause called and argued by Christina Kotowski, counsel for appellants, and John Bonagofsky, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, January 12, 2010

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Banke, Justice, Fred Abad, Deputy Clerk, and CHP Officer Tammy Smith, Bailiff.

A120887 People

v.

Kaomang Permaneth Saeliaw.

Cause called and argued by Randi Covin, counsel for appellant, and Rene Chacon, counsel for respondent. Cause ordered submitted.

A123908 Aaron Anderson,

v.

11th & Folsom Preservation, et al.

Cause called and argued by Joseph Poppen, counsel for appellant, and Lori Feldman, counsel for respondent. Cause ordered submitted.

A125000 Cliff Gardner, et al.,

v.

Arnold Schwarzenegger, as Governor, etc., et al.

Cause called and argued by Kathleen Lynch, counsel for appellants, and Theshia Naidoo, counsel for respondents. Cause ordered submitted.

A121198 People,

v.

Thomas Kirkland.

Cause called and argued by Martin Kassman, counsel for appellant, Michael Banister, counsel for respondent. Cause ordered submitted.

Court adjourned.

Tuesday, January 12, 2010(Continued)

Division Three

**A123844 – The People, v. Richard Jesus Valentine.**

By The Court: It is ordered that the opinion filed herein on December 22, 2009, be modified as follows: The final three sentences of the introductory paragraph are modified to read: Defendant was informed of his right to file a supplemental brief and has done so. The brief raises no issues that are cognizable on appeal. In our independent review of the record we do not find any arguable issue and therefore we shall affirm the judgment. Defendant's petition for rehearing is denied. There is no change in the judgment. McGuinness, P.J. (Not for Publication.)

Division Four

**A121909 – The People, v. Michael James Smith.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A123833 – Saba Tesfagiorgis, v. State Farm Mutual Automobile Insurance Company.**

The appeal is dismissed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Wednesday, January 13, 2010

Division One

**A120387 – Bruce S. Portner, v. Jess Sullivan et al.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

**A125387 – The People, v. Tylor C. Holmes.**

As so modified, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

**A124889 – 1 (800) Reminds Inc., v. Prosodie Interactive (Canada) Inc.**

By The Court: The petition for rehearing is denied. Margulies, J. Acting P.J.

Wednesday, January 13, 2010(Continued)

Division Two

**A122671 – Richard Beil et al., v. Steven Marlowe.**

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A124640 – The People, v. Tuan Quang Duong.**

The restitution order is vacated and the matter is remanded for the entry of a new order of restitution consistent with this opinion. Pollak, J., We Concur: McGuinness, P.J., Siggins, J. (Certified for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, January 13, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Jenkins, J.; and B. Robbins, Deputy Clerk.

A119910    The People,

v.

Steve Gary Dinsmore.

Cause called and argued by J. Bradley O’Connell, counsel for appellant, and Catherine A. Rivlin, counsel for respondent. Cause ordered submitted.

A123666    Murray, Stok & Company,

v.

Recall Corporation, et al.

Cause called and argued by Jeremy Sugerman, counsel for appellant, and Raoul D. Kennedy, counsel for respondent. Cause ordered submitted.

A121633    Kathleen Costa,

v.

Joyce Sneed.

Cause called. Case was postponed as counsel for appellant was not present.

At this point in the proceedings, Justice Pollak left the bench and Justice Siggins joined the bench.

A124157 Ken Pelowski, et al.,

v.

Sharon Pipe.

Cause called and argued by Philip L. Gregory, counsel for appellants, and James R. Carroll, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak re-joined the bench. The panel for the next consisted of Presiding Justice McGuiness, Justice Pollak and Justice Siggins. Justice Jenkins remained in the courtroom but did not participate in argument.



A121633 Kathleen Costa,

v.

Joyce Sneed.

Cause again called. There was no appearance by counsel for appellant. Cause argued by Daniel Berko, counsel for respondent. Presiding McGuinness noted that there was no appearance by counsel for appellant, that the matter was set for 9:00 a.m., that the court waited an additional amount of time for counsel, and that counsel has not made any contact with the court or the clerk's office. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuinness left the bench and Justice Jenkins re-joined argument. Justice Pollak presided over the remainder of the morning session.

A122351 The People,

v.

Lou Suriyan Sisuphan.

Cause called and argued by William L. Osterhoudt, counsel for appellant, and Jeffrey M. Laurence, counsel for respondent. Cause ordered submitted.

A122559 In re the Marriage of Diop and Owens.

Rama Diop,

v.

Richard Meredith Owens.

Cause called. Ozro William Childs appeared on behalf of appellant Diop. There was no appearance by respondent Owens. An attorney in the audience who drafted the respondent's brief but did not represent respondent stated he spoke to respondent a day earlier and expected him to be present at oral argument. Appellant declined to argue in the absence of an opponent, but stated he would answer any questions the court may have. There were none. Acting Presiding Justice Pollak noted the time

and the absence of respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, January 13, 2010(Continued)

Division Five

**A122652 – Carolyn Burton, v. Frederick P. Furth et al.**

The trial court's order granting defendants' motion to strike under section 425.16 is reversed. The matter is remanded with instructions to vacate the order and enter a new order and enter a new order denying the motion. Plaintiff is awarded her costs on appeal. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

**A124058 – The People, v. William Soto.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A122033 – People of the State of California v. Eric Houston.**

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Thursday, January 14, 2010

Division One

**A124605 – In re D.G., a Person Coming Under the Juvenile Court law. The People, v. D.G.**

Accordingly, the judgment is reversed and the case is remanded to the juvenile court for proceedings consistent with the views expressed herein.<sup>1</sup> Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A124395 – The People, v. John Graves.**

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

**A125434 – In re M.H., a Person Coming Under the Juvenile Court Law. The People, v. M.H.**

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<sup>1</sup> In light of our conclusion, defendant's accompanying petition for writ of habeas corpus (A126002) will be dismissed as moot by order filed this date.

This dispositional order is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Thursday, January 14, 2010(Continued)

Division Two

**A122393 – The People, v. Ralph Chapman.**

The judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A123016 – The People, v. Jennifer Ann Rich.**

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Friday, January 15, 2010

Division One

**A120887 – The People, v. Kaomang Permaneth Saeliaw.**

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Four

**A123989 – California Correctional Peace Officers Association et al., v. Tim Virga et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Certified for Publication.)

**A124461 – The People, v. Andrew Clifford King.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT, DIVISION FOUR  
Friday, January 15, 2010

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Harjit Singh, Bailiff.

A119333 Sandra Terzian-Feliz

v.

Vartan Ajamian

Cause called. Ted W. Pelletier argued for appellant Terzian-Feliz. Charles Kagay argued for respondent Ajamian. Cause submitted.

A122283 David Beebe

v.

David Gunderson, et al

Cause called. Stephen T. Davies argued for appellant Beebe. William Mitchell argued for respondents Gunderson, et al. Cause submitted.

At this point, Rivera, J. left the bench and Sepulveda, J., joined the bench.

Argument continued before Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A119620 People of the State of California

v.

Felix Jackson

Cause called. Kari Hong appeared by telephone and argued for appellant

Jackson. Deputy Attorney General Linda Murphy argued for respondent State of California. Cause submitted.

A124221 California Correctional Peace Officers Association, et al,  
v.  
State Of California, et al  
Cause called. Gregg Adam argued for appellant CCPOA. Christopher Thomas argued for respondent State of California. Cause submitted.

At this point, Reardon, J., left the bench and Rivera, J., rejoined the bench.  
Argument continued before Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A123726

Seabright Insurance, Anthony Verdon, et al,

v.

U.S. Airways, et al

Cause called. Barry W. Ponticello argued for appellant Seabright. Michael Padilla argued for appellant Verdon. Elizabeth D. Rhodes argued for respondent U.S. Airways. Cause submitted.

*Court recessed at 11:34 a.m.*

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Friday, January 15, 2010

The Court reconvened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P. J., Sepulveda, J.; and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Tammy Smith, Bailiff.

A119760 Bay Area Senior Services, Inc. et al.

v.

Victor I. Gilbert

Cause called. Robert Peterson argued for appellant Gilbert. Merrill G. Emerick argued for respondents. Cause submitted.

A124869 Clement Chang v. Bank of America, N. A. et al.

A125660 Mark Gillelen v. Clement Chang

Causes called. Eric Herog argued for appellants Bank et al. Aron Liang argued for respondent. Causes submitted.

*Court adjourned at 2:07 p.m.*



Friday, January 15, 2010(Continued)

Division Five

**A117264 – Tolibas Construction, Inc., v. Gary Wang et al., individually and as Trustees, etc.**

The parties shall bear their own costs on appeal. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

**A121972 – The People, v. Sylvie G. Stewart.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Tuesday, January 19, 2010

Division Two

**A122026 & A123889 – Jorge Chacon et al., v. Edward Litke et al.**

The judgment is affirmed. Respondents shall recover their costs in connection with this appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A122575 – Showplace Square Lofts Owners' Association, v. Michael Mead et al.**

The order awarding attorneys fees is affirmed. The HOA shall recover costs on appeal. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A119910 – The People, v. Steve Gary Dinsmore.**

The judgment is affirmed. Pollak, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

**A123614 – The People, v. Mario Saballos.**

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J.  
(Not for Publication.)

**A124864 – Steven Floyd Voss, v. Gary T. Yancey, et al.**

The order filed April 13, 2009, is affirmed. McGuiness, P.J., We Concur: Pollak, J., Jenkins, J. (Not for Publication.)

Tuesday, January 19, 2010(Continued)

**A125204 – The People, v. Simon Calvillo, Jr.**

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J.  
(Not for Publication.)

**A123666 – Murray, Stok & Company, v. Recall Secure Destruction Services, Inc.**

The judgment is affirmed. Recall Secure Destruction Services, Inc. is to recover its costs on appeal. Pollak, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

**A122559 – In re the Marriage of Rama Diop and Richard Meredith Owens, Rama Diop, v. Richard Meredith Owens.**

The judgment is modified by striking from paragraph 3 of the attachment to judgment the following sentence: “If Mother moves to New York City without [the minor], Father shall have primary custody of [the minor].” In all other respects, the judgment is affirmed. Owens shall recover his costs on appeal. Owens’s request for sanctions is denied. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A123672 – Richmond Residents for Responsible Antenna Placement et al., v. City of Richmond, Omnipoint Communications et al., R.P.I.**

By The Court: The petition for rehearing is denied. Pollak, Acting P.J.

Thursday, January 21, 2010

Division One

**A126505 – R.C., v. Superior Court of San Francisco County, San Francisco Human Services Agency et al., R.P.I.**

The request for stay is denied and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894;

*Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

**A125255 – In re J.E., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. O.E.**

The order appealed from is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Thursday, January 21, 2010(Continued)

Division Three

**A125280 – Rudy D. Martin, v. Lawrence Miller.**

The judgment is affirmed. Miller is to recover his costs on appeal. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A120826 – The People, v. Eduardo Pascual Naval.**

Defendant's conviction on count 4, assault with a deadly weapon in violation of section 245, subdivision (a)(1), is reversed.<sup>2</sup> Defendant's convictions on the remaining counts are affirmed. The matter is remanded for resentencing.<sup>3</sup> Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A122471 – The People, v. Michael Edward Mackey.**

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

**A124869/A125660 – Clement Chang, v. Bank of America, N.A. et al.**

The order denying appellants' motion to compel arbitration is affirmed. Respondent shall recover his costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

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<sup>2</sup> Our reversal of defendant's conviction on count 4 renders moot his contention that count 4 should be reversed on grounds of instructional error.

<sup>3</sup> Because we remand for resentencing, we need not address defendant's claims of sentencing error.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, January 21, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J., and Eric F. Cyman, Deputy Clerk.

A124037 Santa Clara County Correctional Peace Officers Association,  
v.  
Richard Abbate et al.,  
Cause called and argued by Douglas B. Allen, counsel for appellant, and by Donald T. Ramsey, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Bruiniers entered.

A124879 Kevin Sean Smith,  
v.  
Bank of America,  
Cause called and argued by Richard M. Rogers, counsel for appellant, and by Greg Richardson , counsel for respondent. Cause ordered submitted.

A123009 All One God Faith,  
v.  
Organic & Sustainable Industry Standards,  
Cause called and argued by David Greene, counsel for appellant and cross-respondent, and by John Lee Cooper, counsel for respondent and cross-appellant. Cause ordered submitted.

A123388 Rachel Cohen-Cepeda,  
v.  
Ray G. Cepeda,  
Cause called and argued by Andrew Kapur, counsel for appellant, and by Gary Dubrovsky, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Simons left the bench and Justice Needham entered.

A120940 Scheherezade Sharabianlou et al.,  
A122167 v.  
A122548 Ronald M. Karp et al.,  
Consolidated causes called and argued by Thomas P. Murphy, counsel for appellants, and by Bernard N. Wolf and Peter K. Peterson, counsel for respondents. Causes ordered submitted.

122722 Great American Insurance Company of New York,  
v.  
Fidelity and Guaranty Insurance Company,  
Cause called and argued by Robert A. Steller, counsel for appellant, and by Kathryn Ashton,  
counsel for respondent. Cause ordered submitted.

A124682 Sea Knot Construction Inc.,  
v.  
Contri Construction Company et al.,  
Cause called and argued by Alan Goldberg, counsel for appellant, and by James D. Curran,  
counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

A123784 Margaret A. Seltzer,  
v.  
Michael Barnes,  
Cause called and argued by Margaret A. Seltzer, appellant, and by Sonia R. Martin, counsel  
for respondent. Cause ordered submitted.

A124920 Interstate Fire and Casualty Ins. Co.,  
v.  
Cleveland Wrecking Co.,  
Cause called and argued by David W. Gordon, counsel for appellant, and by Lawrence  
Butler, counsel for respondent. Cause ordered submitted.

A125133 Lucia Lopez Dominquez,  
v.  
Financial Indemnity Co.,  
Cause called and argued by Felipe Parker, counsel for appellant, and by Jeffrey Zinder,  
counsel for respondent. Cause ordered submitted.

A125834 State Compensation Insurance Fund,  
v.  
The Superior Court of the City and County of San Francisco,  
Onvoi Business Solutions, Inc.,  
Cause called and argued by Sascha Von Mende Henry, counsel for petitioner, and by  
Edward Pomerance, counsel for real party in interest. Cause ordered submitted.

Court adjourned at 3:19 p.m.

Friday, January 22, 2010

Division One

**A125112 – In re D.J., a Person Coming Under the Juvenile Court Law.  
Contra Costa County Bureau of Children and Family Services, v. A.A. et al.**

The order terminating Father's and Mother's parental rights is affirmed.<sup>4</sup>  
Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

Division Two

**A124843 – In re Zakari N. et al., Person Coming Under the Juvenile Court  
Law. San Francisco Human Services Agency, v. Sharonda J.**

By The Court: The opinion in the above-entitled matter filed on December 29, 2009, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Haerle, Acting P.J. (Certified for Publication.)

**A124606 – In re James J., a Person Coming Under the Juvenile Court Law.  
The People, v. James J.**

The sustained finding of felony robbery is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A118638 – The People, v. Sterling Joseph Stryker.**

The judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A123591 – The People, v. Daryl Lawrence Moret, Jr.**

By The Court: It is ordered that the published opinion filed herein on December 28, 2009, be modified as follows: (See Order). Accordingly, the petition for rehearing is denied. Kline, P.J. (Certified for Publication.)

**A124642 – Billy Leon Carthen, v. Betty Brook Carthen et al.**

The trial court's judgment is affirmed in its entirety. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

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<sup>4</sup> Mother's request for judicial notice is denied.

Division Three

Friday, January 22, 2010(Continued)

**A124549 – In re S.W., Solano County Health & Social Services Department, v. A.D.-W.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Monday, January 25, 2010

Division One

**A124883, A125217 – Marianne Beck et al., v. Prana Eight Properties, LLC, et al.**

The judgment of the trial court is reversed. The matter is remanded for entry of a judgment striking plaintiffs' complaint under section 425.16 and any further relief consistent with this decision. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

**A122641 – Everest Properties II et al., v. Sanford N. Diller.**

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

**A124470 – In re P.D., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. C.G. et al.**

**A126601 – C.G., v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.**

In A124470, the juvenile court's jurisdictional order is affirmed, and the matter is remanded to the juvenile court with directions to comply with inquiry and notice provisions of the ICWA, if it has not already done so. After proper notice under the ICWA, if it is determined that P.D. is an Indian child and the ICWA applies to these proceedings, parents are entitled to petition the juvenile court to invalidate order that violated the ICWA. (See 25 U.S.C. § 1914.) In A126601, the writ petition is denied. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A124549 – In re S.W., Solano County Health & Social Services Department,  
v. A.D.W.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

**A121633 – Kaeleen Costa, v. Joyce Sneed.**

The February 27, 2008, order denying Sneed's anti-SLAPP motion is affirmed. Costs shall recover her costs on appeal. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Monday, January 25, 2010(Continued)

Division Four

**A122354 – Perry Morgan, v. Sosa Granite & Marble, Inc.**

The order is reversed and the matter is remanded for further proceedings consistent with this opinion.<sup>5</sup> Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A122108 – The People, v. Paul Mitchell.**

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A123483 – The People, v. John Cunningham.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Tuesday, January 26, 2010

Division Two

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<sup>5</sup> Plaintiff notes that Sosa Granite has filed a separate action (*Sosa Granite & Marble, Inc. v. Morgan* (Super. Ct. Alameda County, No. RG08377119)) asking for “the very same equitable relief from the default and default judgment it sought in the action below.” Plaintiff has requested that this court provide guidance regarding Sosa Granite’s request for equitable relief in this matter so plaintiff “will not need to address this very same issue again in the new action.” We cannot provide such guidance because we have no way of ascertaining whether the issues in the two cases are the same in any or all respects. In any event, the request is more properly addressed to the trial court.



**A124850 – Michael Tague et al., v. Anchor Bay Campground, LLC et al.**

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A117459 – Borrette Lane Estates, LLC, a California General Partnership v. Richard E. Warren, Jr.**

The judgment is affirmed. Respondent shall recover its costs on this appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

# MINUTES

## CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, January 26, 2010

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Singh and I. Santos, Deputy Clerk.

A118764     The People,

v.

Jose Daniel Rodriguez.

Cause called and argued by Eleanor Kraft, counsel for appellant, via teleconference and Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A124814     In re Bennie Moses on Habeas Corpus.

Cause called and argued by Jennifer M. Sheetz, counsel for petitioner, and Steven Warner, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Richman left the bench and Justice Haerle joined the bench for the remainder of the calendar.

A123473     The People,  
v.  
Eduardo Ortiz Cervantes et al.  
Cause called and argued by Robert A. Maddock, Deputy District Attorney,  
counsel for appellant, Jeffrey Steven Kross, counsel for respondent Daniel  
DeMarco, and Gordon Stewart Brownell, counsel for respondent Filberto  
Hernandez. Cause ordered submitted.

A123636     San Francisco Housing Authority,  
v.  
SEIU Local 790.  
Cause called and argued by Vincent A. Harrington, Jr., counsel for  
appellant, and David Tate, counsel for respondent. Cause ordered  
submitted.

A124028     Emmanuel Addo,  
v.  
Regents of the University of California.  
Cause called and argued by William R. Hopkins, counsel for appellant, and  
George A. Acero, counsel for respondent. Cause ordered submitted.

A125234     Charles J. Johnson,  
v.  
Asbestos Defendants (BP);  
Certainteed Corporation.  
Cause called and argued by Richard Grant, counsel for appellant, and  
Thomas J. Mikula, counsel for respondent. Cause ordered submitted.

**Court recessed until 1:30 p.m.**

Tuesday, January 26, 2010(Continued)

Division Three

**A124157 – Ken Pelowski et al., v. Sharon Pipe.**

The judgment is affirmed. Defendant Pipe shall recover costs on appeal. Jenkins, J., We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A123615 – The People, v. Eddie Gene Mendonca.**

The judgments and sentences in both case numbers SCR466844 and SCR530960 are affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A123876 – In re P.A. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. E.A.**

The order terminating mother's parental rights is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Wednesday, January 27, 2010

Division Two

**A123986 – The People, v. Manuel Mills.**

The judgment and order denying the motion to suppress evidence are reversed. This case is remanded to the trial court with directions to provide appellant with the opportunity to withdraw his plea and to conduct further proceedings consistent with our decision. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A122660 – The People, v. Renato Hughes, Jr.**

The judgment and sentence are affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A105981 – John T. Kendall, as Trustee in Bankruptcy, etc.; Maria E. Luckenbach, v. Paull C. Walker et al.**

By The Court: It is ordered that unpublished opinion filed herein on December 30, 2009, be modified as follows: (See Order). For good cause and pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion, as modified herein, is certified for publication with the exception of parts I, II, III.A.1 and III.B., and it is so ordered. Kline, P.J. (Certified for Partial Publication.)

Wednesday, January 27, 2010(Continued)

**A127065 – In re Derek Keith Burgett, on Habeas Corpus.**

We further direct that the remittitur in this case issue immediately. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A126995 – Lisa H., v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.**

The court having jurisdiction to set the section 366.26 hearing, we deny mother's petition on the merits. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A118549 – The People, v. Michael Perrault.**

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A124682 – Sea Knot Construction Company, Inc., v. Contri Construction Company et al.**

The judgment is affirmed. Respondents shall be entitled to their reasonable costs on appeal. Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

**A124037 – Santa Clara County Correctional Peace Officers Association, Inc., v. Richard T. Abbate et al.**

The order is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A123388 – Rachel Cohen-Cepeda, v. Raymond G. Cepeda.**

The restraining order is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

**A125428 – Chunlei Leila Guo, v. Luminary Spa, Inc., et al.**

The amended judgment is affirmed. Mazurova's and LSI's motion for sanctions against Guo, filed December 1, 2009, is denied, as is the accompanying request for judicial notice. Ordinary costs on appeal are awarded to Mazurova and LSI. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, January 28, 2010

Division One

**A122452 – James Stewart et al., v. Rolling Stone LLC et al.**

The order is reversed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

**A118301 – Gene Marchi, v. Ali Mohyee.**

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A124152 – The People, v. Charles E. Lawyer.**

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

**A125334 – The People, v. Raymond Lee Honor III.**

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A125234 - Charles, J. Johnson, v. CertainTeed Corporation.**

The judgment is affirmed. CertainTeed is awarded the costs of appeal. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A123228 – The People, v. Darrell Washington.**

The judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Thursday, January 28, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J. and Siggins, J.; and F. Castuera, Deputy Clerk.

A123725 Lhotka et al.,

v.

Geographic Expeditions.

Cause called and argued by Rodney Gould, counsel for appellant, and Daniel Smith, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak left the bench and Justice Jenkins joined the bench.

A122199 People,

v.

Willis Lavone Creech.

Cause called and argued by Francisco Karwash, counsel for appellant, and Jason Sjoberg, counsel for respondent. Cause ordered submitted.

A124099 Nana Kirk,

v.

Matthew Owen.

Cause called and argued by Jeremy Sugerman, counsel for appellant, and Herbert



Gee, counsel for respondent. Counsel Herbert Gee appeared via teleconference call.  
Cause ordered submitted.

COURT ADJOURNED

Thursday, January 28, 2010(Continued)

Division Four

**A119620 – The People, v. Felix Lee Jackson.**

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J.  
(Not for Publication.)

**A122642 – Paul Katzeff, v. California Department of Forestry and Fire Protection et al., Greg Kuljian and Ed Powers, R.P.I.**

The judgment is reversed. The stay of timber operations heretofore imposed by writ of supersedeas shall remain in effect pending finality of this opinion. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Certified for Partial Publication.)

**A118981 – The People, v. Aukusitino Jesus Afamasaga.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J.  
(Not for Publication.)

**A124307 – In re Donald S., a Person Coming the Juvenile Court Law. The People, v. Donald S.**

The true findings of the trial court are supported by substantial evidence. Therefore, the order adjudging Donald a ward of the juvenile court is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A124979 – The People, v. John Gough.**

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, December 29, 2010

Division One

**A125514 – The People, v. Demorea Reed.**

After a full review of the record, we find no arguable issues and, therefore, affirm the judgment. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A121769 – The People, v. Robert Goodlow.**

Friday, December 29, 2010(Continued)

The judgment is affirmed. Margulies, Acting P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

**A123878 – The People, v. Leslie Gordon Smith.**

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

**A122776 – The People, v. C.S.A.**

The order dismissing the felony possession charge and probation violations is reversed. Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A122067 – David Erwin, v. Stephanie Sjauw.**

The judgment of dismissal following summary judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A124736 – In re Christina H., a Person Coming Under the Juvenile Court Law. The People, v. Christina H.**

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A124099 – Nana Kirk, v. Matthew Owen.**

The order of the trial court is affirmed. Kirk is entitled to her costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1),(2).) Both parties' requests for an award of costs and attorney fees on appeal pursuant to section 527.6, subdivision (i) are denied. Siggins, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

**A125631 – The People, v. Corrina Rose Gonzales.**

The judgment is affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J.  
(Not for Publication.)

**A123725 – Elena Lhotka, Individually and as Executor, etc., et al., v. Geographic Expeditions, Inc.**

The order denying Geo Ex's motion to compel arbitration is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication.)

Friday, December 29, 2010(Continued)

**A122351 – The People, v. Lou Suriyan Sisuphan.**

The judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J.  
(Certified for Publication.)

**A121044 – Brenlar Investments, Inc. et al., v. Helen Lynch.**

We affirm the judgment with respect to Lynch's liability to FHAR. We remand for a new trial on the issue of whether FHAR is precluded by language in the Errors and Omissions Coverage section of its Policy and Procedures Manual from recovering, as damages, its deductible under the E&O policy and, if so precluded, whether FHAR incurred any damages not within the scope of the deductible. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

**A122951 – The People, v. William George Fox.**

The condition of probation concerning association with gang members is modified as follows: "You are not to associate with any person whom you know, or whom the probation officer informs you, is a gang member. For purposes of this condition of probation, the word gang means a criminal street gang as defined in Penal Code section 186.22, subdivision (f)." Except as so modified, the judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A110031 – The People, v. Darrell Younger.**

As noted previously, this is the third opinion we have issued in this case. During the pendency of this matter, the United States Supreme Court has issued three decisions, *Crawford v. Washington*, *Davis v. Washington* and *Giles v. California*, that provide the framework for our analysis of the evidence admitted to secure Younger's conviction. The decision we reach today reflects our careful application of these decisions to the record before us. Accordingly, and for the reasons stated above, we reverse appellant's conviction and we, remand this matter for further proceedings

consistent with this opinion.<sup>6</sup> Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A123687 – Adrienne Hankins, as Co-administrator, etc., v. Asbestos Defendants (BHC), Juanita Reid, R.P.I.**

The order is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, December 29, 2010(Continued)

**A124694 – The People, v. Nathan Gideon.**

Judge O'Malley's order granting specific performance of the plea agreement rejected by Judge Canepa is reversed. The resulting judgment of conviction against Gideon and prison sentence is also reversed. The matter is remanded to the trial court for further proceedings. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

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<sup>6</sup> We express no opinion regarding the merits of the evidence before us in this appeal in the even of a re-trial in this matter.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Friday, January 29, 2010

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Bobby Singh, Bailiff.

A122412     People  
              v.  
              Faustino Ayala  
Cause call. Ozro Childs argued for appellant Ayala. Chris Wei argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P. J., Reardon, J., and Rivera, J.

A122298     People  
              v.  
              Jesus Vasquez-Carreno  
Cause called. Ron Boyer argued for appellant Vasquez-Carreno. Jason Sjoberg argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P. J., Sepulveda, J., and Rivera, J.

A125110     In re B. W., a minor.  
              People  
              v.  
              B. W.  
Cause called. Randall Conner argued for appellant B. W. Chris Wei argued for respondent. Cause submitted.

Court adjourned at 10:34 a.m.

Friday, December 29, 2010(Continued)

Division Five

**A122904 – The People, v. Steven James Contestable.**

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

**A124604 – In re Devonte M., a Person Coming Under the Juvenile Court Law. The People, v. Devonte M.**

In all other respects, the disposition is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

**A124615 – In re Isaiah W., a Person Coming Under the Juvenile Court Law. The People, v. Isaiah W.**

The order is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

**A124879 – Kevin Sean Smith, v. Bank of America.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

